

## HUMAN SERVICES BOARD

# INTRODUCTION

## FINIDNGS OF FACT

2. The petitioner applied for heating fuel assistance on July 15, 2002. On that application she reported that her sole source of income is a Social Security disability benefit

of \$815 per month. Based on this income, the petitioner was found financially eligible for the program. However, PATH also considered the total amount of her fuel liability in its eligibility calculations. Her fuel liability was calculated at \$865 per year using tables adopted by the Department. From this liability amount, PATH deducted the yearly amount of the heating allowance given to the petitioner by the housing authority, \$900, which was established by reference to another table. Since the amount of the allowance exceeded the amount of the fuel liability, PATH concluded that the petitioner had no net heating fuel costs.

3. The petitioner was notified on July 30, 2002 that her fuel application was denied because her "annual heating cost is less than the allowed minimum heating cost to be eligible to receive assistance." She was advised that the amount of her annual heat subsidy was deducted from her annual heat cost to arrive at this conclusion.

4. The petitioner contests this decision for several reasons. First, although she has not lived in this unit for a whole heating season (she moved in last January), she projects from her bills last year that the actual cost of heating her dwelling will be \$1,278.65 this winter. Next, the petitioner believes that she should receive an exemption because she

suffers from Crohn's disease and cannot be without adequate heat in the winter. Finally, the petitioner argues that she is entitled to special consideration, because she is of native American descent, and is a member of the Abenaki tribe.

ORDER

The decision of the Department is affirmed.

REASONS

PATH's regulations adopted for the operation of the seasonal fuel assistance program require that a primary heating fuel cost be determined for each household using standard heating cost tables ("proxy" tables). W.A.M. § 2906.2(b) and 2906.4. The latter regulation explains that the "tables were derived from the actual home heating consumption of fuel assistance recipients and developed in consultation with experts in the home energy field." Id. The Board has determined in prior fair hearings that the use of this "proxy" table as opposed to the use of actual figures, is an allowable methodology under the statute and regulations. See Fair Hearing Nos. 16,720, 17,314, 17,356 and 17,435. Therefore, PATH was not incorrect to refer to its table in determining

the petitioner's heating costs rather than attempting to calculate her actual costs.

According to the "proxy" table, the heating fuel cost for a three-bedroom unit in a multi-family dwelling heated with propane gas is \$865 per year. W.A.M. § 2906.4. The regulations further provide that for persons who participate in a federally subsidized housing program, this annual heating cost must be "reduced by the standard heating subsidy deduction" to yield a "net annual heating fuel cost." W.A.M. 2906.1 and 2906.2. As the regulation explains, this "standard is derived from Housing and Urban Development (HUD) heating subsidy amounts, called allowances by HUD, which are developed by the Vermont State Housing Authority and are specified by housing type, fuel type, and number of bedrooms." Id. The validity of this regulation has also previously been upheld by the Board. See again Fair Hearing Nos. 16,720, 17,314, 17,356 and 17,435.

For a unit of the petitioner's type, size and primary fuel source, the "standard heating subsidy" is \$900 per year. Procedures Manual 2905C. Under the above regulation, the petitioner's \$865 annual heating cost must be reduced by her \$900 annual heating subsidy to get a "net annual heating fuel cost." The net from this calculation is zero. This amount

must be compared with the minimum heating fuel costs found in yet another table at 2906.3. If the figure is below that amount, the petitioner cannot be eligible for benefits.

W.A.M. 2906.2(c). This last table connects the minimum annual heating fuel cost to the income of the applicant. The lower the income, the lower the required heating liability.

However, under this regulation, the lowest minimum annual fuel heating requirement for any income group is \$125, W.A.M. § 2906.3. As the petitioner has no annual heating requirement at all, let alone \$125, she is eliminated from eligibility for her failure to meet this minimum fuel cost amount.

The petitioner has argued further that an exception should be made in her case because she has a serious medical condition and because she is of Native American (Abenaki) extraction. There are no exceptions based on medical condition under the fuel assistance program. Neither is there anything in the regulations which would exempt Abenaki descendants from the operation of the fuel assistance regulations. The petitioner should be aware, however, that there is a separate crisis assistance program that can be used to "alleviate an emergency due to lack of heating capacity for individual households." W.A.M. § 2950. If the petitioner should find herself without resources to pay for heating fuel

this winter, she should contact PATH regarding eligibility for this program.

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